

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Residential Building  
Contractor License of Sunroom Solutions,  
LLC, d/b/a Temo Sunrooms and Exteriors  
and Robert J. Maietta, Individually

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND RECOMMENDATION**

The above-entitled matter comes before Administrative Law Judge Amy J. Chantry pursuant to a Notice and Order for Prehearing Conference filed with the Office of Administrative Hearings on March 27, 2013.

A hearing was scheduled for September 19, 2013, at the Office of Administrative Hearings in St. Paul, Minnesota. Prior to the start of the hearing, the Respondents and the Department's attorney entered into a stipulation whereby the Respondents would not admit the allegations set forth in the Licensing Order nor would the Respondents contest them. The Respondents reserved the right to make argument directly to the Commissioner of Labor and Industry (Commissioner) regarding the appropriate sanction to be imposed under the circumstances. The matter was taken under advisement on December 1, 2013, to allow the Respondents an opportunity to satisfy the outstanding judgments against them.

Michael J. Tostengard, Assistant Attorney General, appeared on behalf of the Minnesota Department of Labor and Industry (Department). Robert Maietta appeared on behalf of himself and Sunroom Solutions d/b/a as Temo Sunrooms and Exteriors (Respondent or Respondents).

**STATEMENT OF THE ISSUES**

1. Did the Respondents violate Minn. Stat. § 326.082, subd. 11(b)(1) (2012)?
2. Did the Respondents violate Minn. Stat. §§ 326B.082, subd. 11 (b)(9) and 326B.84 (15) (2012) by demonstrating themselves to be untrustworthy, financially irresponsible or otherwise incompetent or unqualified to act under a license issued by the Commissioner?
3. Did the Respondents engage in an act or practice that resulted in compensation to an aggrieved owner or lessee from the Contractor Recovery Fund in violation of Minn. Stat. § 326B.84 (9) (2012)?

4. Did the Respondents fail to provide written notification to the Commissioner upon being found to be a civil judgment debtor in violation of Minn. Stat. § 326B.805, subd. 5 (c) (2012)?

5. If so, should the Commissioner require the Respondents to cease and desist from acting as, engaging in or performing the services of a residential building contractor, residential remodeler or residential roofer in the State of Minnesota?

### **SUMMARY OF RECOMMENDATION**

The Administrative Law Judge concludes that based on the facts set forth in the Licensing Order, the Respondents: (1) violated Minn. Stat. § 326.082, subd. 11(b)(1) (2012); (2) violated Minn. Stat. §§ 326B.082, subd. 11 (b)(9) and 326B.84 (15) (2012) by demonstrating themselves to be untrustworthy, financially irresponsible or otherwise incompetent or unqualified to act under a license issued by the Commissioner; (3) engaged in an act or practice that resulted in compensation to an aggrieved owner or lessee from the Contractor Recovery Fund in violation of Minn. Stat. § 326B.84 (9) (2012); and (4) failed to provide written notification to the Commissioner upon being found to be a civil judgment debtor in violation of Minn. Stat. § 326B.805, subd. 5 (c) (2012). Thus, the Commissioner should require the Respondents to cease and desist from acting as, engaging in or performing the services of a residential building contractor, residential remodeler or residential roofer in the State of Minnesota.

Based upon all of the file records and proceedings herein, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

1. The Respondent Sunroom Solutions, LLC, d/b/a Temo Sunrooms and Exteriors held a residential building license between April 11, 2002 and September 8, 2011, license number BC321887. Robert Maietta was the principal and qualifying person for the company. The Respondents, as a licensed residential building contractor, and principal and qualifying person, must adhere to the Minnesota statutes and regulations governing residential building contractors, residential remodelers, and residential roofers.<sup>1</sup>

2. On December 7, 2010, CBS Outdoor, Inc., obtained a \$7,328.68 civil judgment against the Respondent Sunroom Solutions, LLC, d/b/a Temo Sunroom and Exteriors in Ramsey County Civil Court. The Respondents failed to provide written notification to the Commissioner as required by Minn. Stat. § 326B.805, subd. 5 (c) (2012).<sup>2</sup>

3. On July 8, 2011, Olson Living Trust, *et al.*, obtained two civil judgments, \$28,638.08 and \$10,174.73, against the Respondent Sunroom Solutions, LLC, d/b/a Temo Sunrooms and Exteriors in Hennepin District Court. The Respondents failed to

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<sup>1</sup> Ex. A; Ex. 1.

<sup>2</sup> *Id.*; Ex. 2.

provide written notification to the Commissioner as required by Minn. Stat. § 326B.805, subd. 5 (c) (2012). Due to the Respondents' failure to satisfy these judgments, the Contractor Recovery Fund has executed a settlement agreement for the issuance of an \$18,099.90 payout as scheduled to be made in December of 2013.<sup>3</sup>

4. On October 21, 2011, Mark Dueffert obtained a civil judgment against the Respondent Temo Sunrooms and Exteriors in Ramsey County Conciliation Court. Due to the Respondents' failure to satisfy this judgment, a Contractor Recovery fund payout was issued in the amount of \$5,850.00 in December of 2012.<sup>4</sup>

5. On February 11, 2013, the Department served the Respondents with a Licensing Order. The Licensing Order requiring the Respondents to cease and desist from acting as, engaging in or performing the services of a residential building contractor, residential remodeler or residential roofer in the State of Minnesota.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS OF LAW**

1. The Administrative Law Judge and the Commissioner have jurisdiction in this matter to consider the Licensing Order issued against the Respondents under Minn. Stat. §§ 14.50, 326B.082, and 326B.083.

2. The Respondents received due, proper, and timely notice of the Licensing Order against them, and the time and place of the hearing. The Department has fulfilled all relevant procedural requirements of law and rule. This matter is, therefore, properly before the Commissioner and the Administrative Law Judge.

3. The Respondent entered into a stipulation with the Department under which he does not admit and does not contest the allegations set forth in the Licensing Order enumerated above. Accordingly, this matter will be handled similar to a default. The allegations contained in the Licensing Order with respect to the Respondents are taken as true.

4. Based upon the facts set forth in the Licensing Order enumerated above, the Respondents violated Minn. Stat. § 326B.082, subd. 11(b)(1) (2012).

5. Based upon the facts set forth in the Licensing Order enumerated above, the Respondents violated Minn. Stat. §§ 326B.082, subd. 11 (b)(9) and 326B.84 (15) (2012) by demonstrating themselves to be untrustworthy, financially irresponsible or otherwise incompetent or unqualified to act under a license issued by the Commissioner.

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<sup>3</sup> *Id.*; Ex. 3.

<sup>4</sup> *Id.*; Ex. 4.

6. Based upon the facts set forth in the Licensing Order enumerated above, the Respondents engaged in an act or practice that resulted in compensation to an aggrieved owner or lessee from the Contractor Recovery Fund in violation of Minn. Stat. § 326B.84 (9) (2012).

7. Based upon the facts set forth in the Licensing Order enumerated above, the Respondents failed to provide written notification to the Commissioner upon being found to be a civil judgment debtor in violation of Minn. Stat. § 326B.805, subd. 5(c) (2012).

8. Based upon the Respondents' violations of Minn. Stat. §§ 326B.082, subd. 11(b)(1), (b)(9); 326B.84 (9), (15); and § 326B.805, subd. 5 (c), the Commissioner is authorized to issue a licensing order requiring the Respondents to cease and desist from acting as, engaging in or performing the services of a residential building contractor, residential remodeler or residential roofer in the State of Minnesota.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED that the Commissioner of Labor and Industry **AFFIRM** the Licensing Order and require the Respondents to cease and desist from acting as, engaging in or performing the services of a residential building contractor, residential remodeler or residential roofer in the State of Minnesota.

Dated: January 7, 2014

s/Amy J. Chantry  
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AMY J. CHANTRY  
Administrative Law Judge

Reported: Digitally Recorded  
No Transcript Prepared

## NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Labor and Industry will make the final decision after reviewing the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the Commissioner's decision shall not be made until this Report has been available to the parties to the proceeding for at least ten (10) days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Commissioner Ken Peterson, Attention: Wendy Willson Legge, Director of Legal Services; Minnesota Department of Labor & Industry, 443 Lafayette Road, St. Paul, MN 55155; telephone number: 651-284-5126, to ascertain the procedure for filing exceptions or presenting argument to the Commissioner.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this Report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the Report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law. If the Commissioner fails to issue a final decision within 90 days of the close of the record under Minn. Stat. § 14.61, this Report becomes a final decision.